

ENTERED

November 02, 2016

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**ARNOLD RAY REED,
(TDCJ-CID #1205652)

Plaintiff,

vs.

WILLIAM STEPHENS, *et al.*,

Defendants.

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CIVIL ACTION NO. H-16-3166

MEMORANDUM ON DISMISSAL

Arnold Ray Reed, a Texas Department of Criminal Justice inmate, filed this suit in October 2016. He is representing himself and seeks leave to proceed without prepaying costs. He has sued William Stephens, Director of prison operations for TDCJ-CID; Brad Livingston, Executive Director for prison operations; and Kevin Wheat, Warden at Eastham Unit. Reed alleges that since 2013, at different TDCJ units, his food has been poisoned, he has been assaulted by other inmates, and his legal mail has been interfered with. Reed seeks unspecified compensatory and punitive damages.

The threshold issue is whether Reed's claims must be dismissed as barred by the three-strikes provision of 28 U.S.C. § 1915(g). A prisoner may not bring a federal civil action without prepaying costs if, while incarcerated, three or more of his civil actions or appeals were dismissed as frivolous or malicious or for failure to state a claim upon which relief may be granted, unless he is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g). Before Reed filed this action, he had at least three suits dismissed as frivolous: *Reed v. City of Dallas*, Civil Action No. 3:05-0004 (dismissed as frivolous on June 29, 2006) (N.D. Tex.); *Reed v. Johnson*, Appeal No. 04-10700 (dismissed as frivolous on May 2, 2005) (5th Circuit); and *Reed v. Dallas Cnty. Sheriff's Dep't*,

Civil Action No. 3:03-2166 (dismissed for failure to state a claim on November 4, 2004) (N.D. Tex.). In the present case, Reed has not alleged, nor does his complaint demonstrate, that he is in imminent danger of serious physical injury. He is barred under 28 U.S.C. § 1915(g) from proceeding without prepaying costs in this action.

Reed's motion to proceed without prepaying costs, (Docket Entry No. 2), is denied. His complaint is dismissed under 28 U.S.C. § 1915(g). Reed's motion for the appointment of counsel, (Docket Entry No. 3), is denied. All pending motions are denied. Reed is warned that continued frivolous filings may result in the imposition of sanctions.

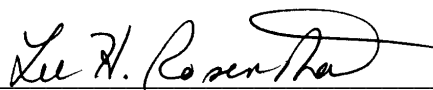
The Clerk will provide a copy of this order by regular mail, facsimile transmission, or e-mail to:

(1) the TDCJ - Office of the General Counsel, Capitol Station, P.O. Box 13084, Austin, Texas, 78711, Fax: 512-936-2159;

(2) the Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629, Fax: 936-437-4793; and

(3) the District Clerk for the Eastern District of Texas, Attention: Manager of the Three-Strikes List, Lori_stover@txed.uscourts.gov.

SIGNED on November 2, 2016, at Houston, Texas.

A handwritten signature in black ink, reading "Lee H. Rosenthal", is written over a horizontal line.

Lee H. Rosenthal
United States District Judge